



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

February 8, 2012

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To: Supervisor Zev Yaroslavsky, Chairman
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From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

SACRAMENTO UPDATE

This memorandum contains a pursuit of a County position on legislation related to the expedited judicial review process under the California Environmental Quality Act, and a report on redevelopment legislation of County interest regarding debt forgiveness.

Pursuit of County Position on Legislation

SB 52 (Steinberg), which as amended on January 12, 2012, would make several technical and clarifying changes to various provisions of AB 900 (Chapter 354, Statutes of 2011), which created an expedited judicial review process and specified procedures for the preparation and certification of the administrative record for an Environmental Impact Report (EIR).

Under existing law, the California Environmental Quality Act (CEQA) requires a lead agency with the principal responsibility for carrying out, or approving a proposed discretionary project, to evaluate the environmental effects of its action and prepare a negative declaration, mitigated negative declaration, or an EIR. If an initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. A lead agency must base its determination of significant effects on substantial evidence. Current law also authorizes a judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval.

"To Enrich Lives Through Effective And Caring Service"

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AB 900, the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, created an expedited judicial review process and specified procedures for the preparation and certification of the administrative record for an EIR. This measure also authorized the Governor, upon application, to certify a leadership project related to the development of a residential, retail, commercial, sports, cultural, entertainment, or recreational use project, or clean renewable energy or clean energy manufacturing project. SB 52 would make the following technical and clarifying changes to various provisions of AB 900:

- Clarify that large public and private projects may be considered for a leadership project and that these projects may be publicly financed, privately financed, or financed from revenues generated from the projects themselves and that the projects do not require taxpayer financing.
- Require that a project result in a minimum investment of \$100.0 million spent on planning, design, and construction of the project. The bill also would require a lead agency to place the highest priority on feasible measures that will reduce greenhouse gas emissions on the project site and in the neighboring communities of the project site.
- Repeal the provision in AB 900 which requires a party seeking judicial review of the EIR to bring concurrently other claims alleging a public agency has granted land use approvals or a leadership project in violation of law.
- Clarify that the project applicant is responsible to pay the costs of the court of appeals in hearing and deciding any case, including payment of the costs for a special master if deemed appropriate by the court, and the costs of preparing the administrative record for the project.

According to County Counsel, in the event that the County decided to challenge any project that qualifies under SB 52 or AB 900, including the EIR, the County would be subject to the same expedited timelines and procedures expected from any other challenger. If the County is the lead agency for a project, the County would also be required to comply with those requirements. County Counsel also indicates that the expedited time frame is ambitious and could be difficult to meet. Further, if the project is a public project, making the County the applicant, then, the County as the applicant would be responsible for the costs of the court of appeals hearing and decision including payment of the costs for a special master if deemed appropriate by the court, and the costs of preparing the administrative record for the project.

The Department of Regional Planning concurs with comments made by County Counsel.

Provisions of SB 52 which clarify that large public projects may be considered for a leadership project could potentially benefit the County; however, according to the Department of Public Works (DPW), the bill would not benefit existing DPW projects, since DPW projects do not meet current criteria for a leadership project. According to DPW, in order for this measure to benefit the County, the following conditions should be considered:

- The threshold for a minimum investment of \$100.0 million in the project should be lowered or eliminated for public works infrastructure projects.
- Projects which provide critical services related to the health and safety of the public should not be required to implement mitigations to ensure no net increase in harmful emissions; rather, the local jurisdiction should be required to implement measures which reduce their net emissions.
- Include transportation projects to reduce traffic congestion and other public works infrastructure projects that do not generate new trips like a development project, and do not result in net increases in emissions. Allow some limited greenhouse gases, if the proposed project is offsetting other hazards or impacts to the public's health, safety, and water supply.
- Transportation projects to reduce congestion and other public works infrastructure projects should be exempt from the Leadership in Energy and Environmental Design certification requirement by U.S. Green Building Council.

On September 27, 2011, your Board directed this office and the Sacramento advocates to initiate/support legislative efforts that provide the same expedited judicial review process under the CEQA contained in SB 292 (Chapter 353, Statutes of 2011) for projects that provide vital public services, including hospitals, health clinics, fire and police/sheriff stations, communication facilities/systems, libraries, schools, transportation projects, and other vital government capital projects in the County of Los Angeles that serve the public interest as well as commercial, sports, cultural, recreational and clean energy projects. SB 292 established an expedited judicial review process for the proposed downtown Los Angeles Convention Center modernization and Farmers Field Project. Therefore, consistent with existing policy and your Board directive of September 27, 2011, to support legislation that provides expedited judicial review processes, similar to those provided in SB 292 of 2011, **the Sacramento advocates will support SB 52, because it clarifies that public projects are eligible for an expedited judicial review, and request that it be amended to expand the**

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scope of a leadership project to include projects that provide vital public services, as indicated above.

SB 52 is supported by the California League of Conservation Voters, and Natural Resources Defense Council. The measure is opposed by the American Wood Council.

The bill passed the Senate Floor, by a vote of 32 to 4 on January 31, 2012, without the urgency measure clause, and now proceeds to the Assembly for assignment to a committee.

Legislation of County Interest

AB 1555 (Norby), which as introduced on January 26, 2012, would repeal provisions of the California Redevelopment Law regarding forgiveness of the repayment of a loan, advance, or indebtedness that is owed by a public body to the Redevelopment Agency (RDA) or by the RDA to the public body.

Under current law, a public body or an RDA forgiving a repayment shall adopt a resolution that states its intent to forgive the repayment. The resolution must include the following: 1) the name of the public agency or RDA; 2) the amount of the proposed forgiveness; 3) the terms on the loan, advance or indebtedness; and 4) the fiscal effect of the proposed forgiveness on the public body. The adoption of the resolution and the action that forgives the repayment must be adopted by a recorded roll-call vote.

AB 1555 would repeal these provisions and add language to the California Redevelopment Law which would prohibit an RDA from forgiving, wholly or in-part, the repayment of a loan, advance, or indebtedness owed by a public body to the RDA.

The Chief Executive Office (CEO) contacted the author's office who indicated that RDAs are forgiving millions of dollars in indebtedness. AB 1555 is intended to prohibit this practice. The CEO is working with County Counsel, the Auditor-Controller, and the Community Development Commission on an analysis of this measure.

AB 1555 is currently at the Assembly Desk. This measure may be heard in committee on or after February 26, 2012. There is no registered support or opposition on file.

We will continue to keep you advised.

WTF:RA
MR:VE:GA:sb

c: All Department Heads
Legislative Strategist